

Permitting & Assistance Branch Staff Report

New Solid Waste Facilities Permit for the

Lehigh Southwest Cement Company

SWIS No. 15-AA-0402

February 2, 2015

Background Information, Analysis, and Findings:

This report was developed in response to the Kern County Environmental Health Division Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed new Solid Waste Facilities Permit (SWFP) for the Lehigh Southwest Cement Company, SWIS No. 15-AA-0402, located in Tehachapi and owned and operated by Lehigh Southwest Cement Company. A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on December 12, 2014. A new proposed permit was received on January 7, 2015. Action must be taken on this permit no later than March 8, 2015. If no action is taken by March 8, 2015, the Department will be deemed to have concurred with the issuance of the proposed new SWFP.

The following are the key design parameters of the proposed project:

	Proposed Permit
Operator	Lehigh Southwest Cement Company
Owner	Lehigh Southwest Cement Company
Facility Type	Engineered Municipal Solid Waste Conversion Facility (EMSW)
Proposed Hours/Days of Operation	24 hours/day/7 days per week including all holidays
Proposed Maximum Tonnage	350 TPD of EMSW
Proposed Traffic Volume	15 Vehicles delivering EMSW
Proposed Area (acres)	2.2
Storage Limit	2450 Tons of EMSW on site at any given time
Waste Types	Engineered Municipal Solid Waste, Tire Derived Fuel, Biomass

Background

Lehigh Southwest Cement Company is an existing cement production plant operating since 1908. The operator proposes to operate an Engineered Municipal Solid Waste Conversion facility within the boundaries of the cement plant. The operator proposes to replace coke and natural gas fuels with engineered solid waste, tire derived fuel and biomass to manufacture cement. The facility can only accommodate one of the alternative fuels at any given time so the fuels will not be blended in combination prior to conversion.

Findings:

Staff recommends concurrence in the issuance of the proposed new SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

	Findings	
PRC 40131.2(a) Eight Part Test to Meet EMSW Requirements	The LEA found the facility qualified as an Engineered Municipal Solid Waste conversion facility in their permit submittal letter dated December 12, 2014.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
T 27 21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated December 12, 2014.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
T21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on January 7, 2015.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
T 27 21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on December 12, 2014, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Countywide Siting Element, as described in the memorandum dated December 18, 2014.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

	Findings	
T 27 21685(b)(8) Operations Consistent with State Minimum Standards	Permitting and Assistance Branch staff has determined that the design and operation as described in the submitted Transfer/Processing Report (TPR) will allow the proposed facility to comply with State Minimum Standards.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
T 27 21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on December 12, 2014 that the proposed permit is consistent with and supported by the existing CEQA documentation. See the Environmental Analysis below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on November 20, 2014. Written comments were received by LEA or Department staff. Oral comments were addressed by LEA staff. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed new SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

The LEA and Permitting & Assistance Branch staff conducted a site visit on November 20, 2014, and have determined that the design and operations described in the submitted Transfer Processing Report will allow the proposed facility to comply with State Minimum Standards.

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the Kern County Planning Department, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The changes that will be authorized by the issuance of the proposed permit include: operation of an Engineered Municipal Solid Waste Conversion facility with a maximum permitted tonnage of 350 TPD of EMSW, operating 24 hours per day, seven days per week. This project is supported by the following environmental document.

An Environmental Impact Report (EIR), State Clearinghouse No. 2012121052, was circulated for a 45 day comment period from August 20, 2013, to October 3, 2013. The EIR identified significant and unavoidable impacts to air quality from cumulative construction emissions and cumulative mobile source greenhouse gas emissions. The Final EIR, together with the Statement of Overriding Considerations, was certified by the Lead Agency on November 14, 2013.

The Lead Agency determined that the project benefits outweigh the adverse environmental impacts. The benefits from the project will include:

- The proposed project would help provide a permanent and sustainable solutions to waste management issues by allowing for re-use rather than landfilling;
- The proposed project will reduce the amount of coal and petroleum coke, both non-renewable resources, required for operation of the cement plant;
- The proposed project would create cement kiln process heat that reduces air pollutants in the Eastern Kern Air Pollution Control District. Both construction-period and operational air pollutions emissions are well below the established thresholds of significance;
- The proposed project would help meet federal and state goals for alternative renewable and green energy sources;
- The proposed project would source RDF and TDF fuels from facilities that reduce overall transportation related fuel consumption, thereby minimizing mobile sources emissions;
- The proposed project would generate up to 15 construction jobs as well as one full-time permanent job;
- The proposed project uses alternative fuel sources to power an existing industrial facility;
- The proposed project complies with the goals and policies of the Kern County General Plan and Zoning Ordinance. The project is located within the 7.3 (Heavy Industrial) General Plan designation and an M-3 (Heavy Industrial) zoning designation. The combustion of biomass and TDF's for energy generation is permitted in this zone, and the use of RDF's is conditionally permitted.

Statement of Overriding Considerations:

Because all of the project's impacts cannot be avoided or substantially reduced, before concurring on the issuance of the proposed permit, the Department must adopt a Statement of Overriding Considerations that indicates its reasons for overriding the adverse environmental effects caused by the proposed project. It is Department staff's recommendation that the Department adopt as its own the Statement of Overriding Considerations as adopted by LEA to the extent the unavoidable significant environmental effects of the Project identified in the Statement of Overriding Considerations relate to environmental effects caused by the Department's exercise of its Statutory Authority.

Department staff further recommends the Final Environmental Impact Report, with all other CEQA documents adopted by the LEA, and with the inclusion of the Statement of Overriding Considerations, is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The Kern County Environmental Health Division has provided a finding that the proposed new SWFP is consistent with and supported by the cited environmental document.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the Final Environmental Impact Report as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed new SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed new SWFP and all of its components and supporting documentation, this staff report, the Final Environmental Impact Report adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed new SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on November 20, 2014, at the Tehachapi Veterans Hall in the City of Tehachapi. Approximately thirty members of the public were in attendance.

The LEA and operator provided verbal responses at the meeting which were then followed up in writing; which addressed 6 questions regarding air emissions, 9 questions regarding the fuel sources and violations received by those sources, 2 questions regarding load checking, and 3 questions regarding the noticing of the meeting.

The Eastern Kern County Air Quality Management District verbally responded to 15 questions specific to their authority regarding air emission regulations and permitting.

No comments have been received by Department staff.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on January 27, 2015.